

## The Honorable Ricardo S. Martinez

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

## STATE OF WASHINGTON,

**Plaintiff,**

V.

ALDERWOOD SURGICAL CENTER, LLC,  
a Washington limited liability company;  
NORTHWEST NASAL SINUS CENTER  
P.S., a Washington professional service  
corporation; and JAVAD A. SAJAN, M.D.,

## Defendants

NO. 2:22-cv-01835-RSM

STATE'S MOTION TO COMPEL  
PRODUCTION OF CONSUMER  
NAMES AND EMAIL ADDRESSES  
IN KEY DOCUMENTS

**NOTE FOR CONSIDERATION:**  
Friday, September 22, 2023

1                   **I. INTRODUCTION AND RELIEF REQUESTED**

2                 In 2016, Congress unanimously enacted the Consumer Review Fairness Act (CRFA) to  
 3 forbid companies from using form non-disclosure agreements (NDAs) to prohibit or restrict  
 4 consumers from truthfully sharing their negative experiences in online reviews. Defendants'  
 5 discovery responses confirm that they used both pre-service and post-service NDAs to restrict  
 6 their patients from posting negative reviews *thousands* of times.<sup>1</sup> Defendants, however, refuse to  
 7 disclose the identities of consumers who were the subject of these NDAs, unilaterally redacting all  
 8 consumer names and email addresses from their post-service NDAs and from hundreds of pages of  
 9 emails and other documents demonstrating how Defendants used the NDAs to threaten and  
 10 silence consumers.<sup>2</sup>

11                 The State requested these documents in April, but Defendants refused to produce them  
 12 absent a protective order. The Court entered a HIPAA-compliant protective order for this case in  
 13 May, which protects patient identities from public disclosure. Dkt. #21. Despite this, Defendants  
 14 have refused to remove their prior redactions of consumer names and email addresses from these  
 15 key documents. Defendants' continuing refusal to provide this essential information is interfering  
 16 with the State's core trial preparation; conveniently for Defendants, it prevents the State from  
 17 identifying and interviewing ***the most relevant witnesses in this case.*** Contrary to Defendants'  
 18 purported concerns for patient privacy, the State does not seek any information about the medical  
 19 services patients received—indeed, the NDAs and other communications at issue do not reveal that  
 20 information and the State has no objection to wholesale redactions concerning each patient's  
 21 specific medical procedure.

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23                 <sup>1</sup> In May, this Court held that the *least* restrictive version of Defendants' pre-service NDAs  
 24 "could *easily* be construed . . . as prohibiting or restricting the ability of a consumer to communicate a  
 negative review of Defendants' business." Dkt. #22 at p. 5 (emphasis added).

25                 <sup>2</sup> This Motion is limited to Defendants' redactions to approximately 200 post-service NDAs and  
 26 approximately 300 other documents that expressly refer or relate to consumer complaints, pre-service  
 NDAs, and/or post-service NDAs.

1 The State has a compelling need for this information and there is no legal justification for  
2 Defendants' continuing refusal to provide it. Accordingly, the State respectfully requests that the  
3 Court order Defendants to produce responsive documents without redacting consumer names and  
4 email, and to award the State its fees for having to bring this Motion.

## II. BACKGROUND

**A. Allure Redacted All Consumer Names and Email Addresses from Key Documents, Preventing the State from Obtaining Consumer Evidence**

The State alleges that Defendants Alderwood Surgical Center, LLC, Northwest Nasal Sinus Center P.S., and Javad A. Sajan, M.D. (collectively Allure Esthetic, or Allure) systematically suppressed negative reviews by using form NDAs that restricted patients from posting negative reviews, in violation of the CRFA, 15 U.S.C. § 45b, and the Washington Consumer Protection Act (CPA), RCW § 19.86. *See* Dkt. #1 at pp. 2-4, ¶¶ 6-15. Allure required over 10,000 patients, before receiving services, to sign a pre-service NDA that restricted them from posting truthful reviews about their experiences. *Id.* at pp. 3, 7-10, ¶¶ 7, 46-48 & Ex. A-C. From August 2017 to January 2019, Allure also required patients to agree that if they did post a negative review, Allure could unilaterally reveal the patient’s protected health information (PHI) when responding to the review. *Id.* at pp. 3, 9-10, ¶¶ 8, 46-47 & Ex. A-B.

When patients posted negative reviews in violation of Allure’s pre-service NDAs, Allure used those NDAs—and the threat, or implied threat, of taking legal action to enforce them—to coerce patients into taking down the negative reviews. *Id.* at p. 3, ¶ 9. If those efforts failed, Allure offered patients cash, free services, or other incentives “to make things right” if they signed a second, post-service NDA. *Id.* at pp. 3, 13, ¶¶ 10-12, 63-67 & Ex. D. The post-service NDA required patients to remove their negative reviews and prohibited them from posting negative reviews or ever discussing Allure’s business with anyone in the future. *Id.* The State requested the roughly 200 post-service NDAs and related correspondence in discovery; Allure unilaterally redacted all consumer names and email addresses from the documents.

1 Allure's discovery conduct is obstructing the State's trial preparation. Meanwhile, Allure  
 2 has criticized the State to this Court for not identifying more consumer witnesses, implying that  
 3 there aren't any and that the State is relying excessively on former employees to establish its case.  
 4 See Dkt. #30 at p. 31 ("although this is supposedly a consumer protection investigation, the  
 5 overwhelming majority of individuals interviewed by the [Attorney General's Office] (75%) during  
 6 its investigation were former employees, not patients or consumers"). This is a red herring: there is  
 7 ample consumer testimony supporting the State's NDA-related claims from Allure patients who  
 8 filed complaints with the Attorney General's Office (AGO). See Declaration of Matthew  
 9 Geyman in Support of State's Motion to Compel Production of Consumer Names and Email  
 10 Addresses in Key Documents (Geyman Decl.), Ex. A-G (Declaration of Sacha Faust  
 11 (Oct. 26, 2021), ¶¶ 5-12 & Ex. A-D; Declaration of Cynthia Tamlyn (Nov. 4, 2021), ¶¶ 3-8 &  
 12 Ex. A-B; Declaration of Rachel Kahl (Nov. 24, 2021), ¶¶ 7 & 14; Declaration of Victoria Hester  
 13 (Jan. 26, 2022), ¶¶ 5-7, 11-13, & Ex. A-D; Declaration of David Lundin (June 13, 2023), ¶¶ 7-8, 22  
 14 & Ex. A-B; Declaration of Alexia Holeso (July 1, 2023), ¶¶ 5-15 & Ex. A-C; and Declaration of  
 15 Mina Hogan (July 5, 2023), ¶¶ 3, 5-13, & Ex. A-D, describing Allure's use of pre-service and/or  
 16 post-service NDAs to restrict consumer reviews). Once Allure identifies the consumers named in  
 17 its post-service NDA, internal emails, and communications to and from patients regarding specific  
 18 patient complaints, pre-service NDAs and/or post-service NDAs, there are likely to be many, many  
 19 more consumers with testimony to provide to the Court.

20 **B. The State Has a Well-Founded Basis to Believe the Discovery Requested Will Lead  
 21 Directly to Damning Evidence**

22 Excerpts from Allure's internal emails discussing negative patient reviews and its efforts  
 23 to obtain post-service NDAs from those consumers demonstrates the nature of this evidence and  
 24 the relevance of potential consumer testimony:

25 [Consumer's name redacted] is scheduled with you on Tue [date redacted]. This is  
 26 a patient who previously posted a neg review online. She was upset because she

requested a specific filler and when she came back a month later for her appointment, we didn't have the requested filler set aside so she did not get treated and left upset. She agreed to remove the review and to sign the non-disclosure form for us once we offered her a \$300 credit towards lip filler.<sup>3</sup>

\* \* \*

[Consumer's name redacted, different consumer] – Posted a review on Allure Yelp, currently has settlement agreement for refund . . .<sup>4</sup>

\* \* \*

[Consumer's name redacted, different consumer] – Dr. Jonov pt. left negative reviews online (all over) has deleted some, but has an agreement to receive 10 vials of Sculptra at no cost, must remove all reviews . . .<sup>5</sup>

\* \* \*

[Consumer's name redacted, different consumer] – Posted a negative review on Gallery (Sajan pt) d/t appointment location mix up. Has updated to 5 stars, but still needs to sign the settlement agreement. Her man [name redacted] I feel should also sign it. Just because I wouldn't put it past him to go and leave a Google review too

Allure redacted the consumer names from all of its nearly two hundred post-service NDAs, each of which required the consumers to remove all negative reviews previously posted and to refrain from posting any negative reviews or otherwise disclosing negative information about Allure’s practices to anyone in the future. *See* Geyman Decl., Ex. J (ASC002407, post-service NDA, consumer’s name redacted, requiring consumer to “remove and delete any and all” negative reviews and refrain from posting any negative reviews in the future, attaching copy of consumer’s one-star review of Allure stating “Creams do not work and are expensive”). Yet at the same time, in its answer, Allure **denies** that the post-service NDAs are “form contracts”

<sup>3</sup> See Geyman Decl., Ex. H (ASC003521, 9/6/19 internal email, consumer's name redacted).

<sup>4</sup> *Id.*, Ex. I (ASC004049, 12/26/18 internal email titled “Pending complaints,” multiple consumers’ names redacted).

5 *Id.*

6 *Id.*

1 under the CRFA, and, going one step farther, affirmatively alleges that they are ***not*** “form  
 2 contracts.” *See* Dkt. #30 at p. 23, ¶ 150 & p. 36, ¶ 15. Thus, Allure affirmatively contends that  
 3 its post-service NDAs are ***not*** “form contracts” while at the same time preventing the State from  
 4 contacting the consumers who signed the post-service NDAs to establish that the post-service  
 5 NDAs ***are*** form contracts that were not meaningfully negotiated.

6 By redacting the consumer names and email addresses in these documents, Allure has  
 7 also prevented the State from gathering consumer testimony showing how Allure enforced its  
 8 pre-service and post-service NDAs—to prevent negative reviews and coerce consumers into  
 9 taking down negative reviews. Again, this is shown by reviewing a sampling of the redacted  
 10 documents themselves. In one case, after a consumer posted a negative review on Yelp, Allure’s  
 11 in-house counsel sent a letter to the consumer threatening to sue her for violating the NDA if she  
 12 did not immediately remove all negative reviews:

13 Dear Ms. [consumer’s name redacted] . . . [P]er the Online Reputation Agreement,  
 14 you agreed that if you were unhappy with the care [or] services provided, you would  
 15 first notify Dr. Jonov’s office so that he could reach an amicable resolution. You  
 16 have not abided by the terms of the Agreement . . . Accordingly, please remove any  
 and all online reviews of Dr. Jonov and The Gallery of Cosmetic Surgery, and send  
written notice . . . that you will discontinue posting within ten (10) days . . .<sup>7</sup>

17 In response to that letter, the consumer replied by email:

18 Thanks Sarah! Unfortunately my statements weren’t false, and what you’ve  
 19 described in this letter is not an accurate description of what I was told at my  
 20 appointment or what I said. I don’t need to waste my time arguing your points  
 individually, as they are all inaccurate. I will be posting this letter to Yelp though,  
 so everyone can see what you do to try to intimidate people who honestly report  
 21 their negative experiences.<sup>8</sup>

22 In another letter, Allure’s in-house counsel wrote to another consumer whose name and  
 23 email address were redacted in the document, and stated:

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24  
 25 <sup>7</sup> *Id.*, Ex. K (ASC003604).

26 <sup>8</sup> *Id.*, Ex. L (ASC000868).

1      Dear [consumer's name and email address redacted]: . . . We have been provided  
 2      a copy of the Yelp.com review you submitted under screen name “[consumer’s  
 3      name redacted].” We also understand that you have acknowledged to Allure  
 4      Esthetic that you did in fact post the review on Yelp.com . . . [A]s part of the [post-  
 5      service NDA] you agreed to “remove and delete any and all information related to  
 6      Confidential Matters defined herein posted on internet platforms (including but  
 7      not limited to Facebook, Instagram, LinkedIn, SnapChat, Yelp, Google, and  
 8      Twitter.)” In light of this, we demand that you immediately remove your Yelp.com  
 9      review and cease and desist from posting any further reviews on any Internet  
 10     platform . . . [U]nder [the post-service NDA], you have agreed to pay Allure  
 11     Esthetic \$250,000 or \$10,000 per day that you remain in breach . . . [Y]our failure  
 12     to uphold these covenants will leave Allure Esthetic no alternative but to pursue  
 13     injunctive relief to remove your Yelp.com review and a claim for damages . . .<sup>9</sup>

14     To give another example, Allure’s in-house counsel wrote to a consumer and stated:

15     Dear [consumer's name and email address redacted]: . . . We have been provided a  
 16     copy of the Google.com review you submitted under screen name “[consumer’s  
 17     name redacted].” . . . [I]t is a violation of the [post-service NDA] for you to disclose  
 18     or publish details “arising out of any and all medical care, medical advice, office  
 19     visits, phone conversations, payment, treatment, injection, surgery, and/or  
 20     diagnosis” resulting from your interactions with Allure Esthetic through any  
 21     medium, including Google.com. Furthermore, as part of the [post-service NDA]  
 22     you agreed to “remove and delete any and all information related to Confidential  
 23     Matters defined herein posted on internet platforms (including but not limited to  
 24     Facebook, Instagram, LinkedIn, SnapChat, Yelp, Google, and Twitter).” In light of  
 25     this, we demand that you ***immediately remove your Google.com review*** and cease  
 26     and desist from posting any further reviews on any Internet platform . . . [U]nder  
 27     [the post-service NDA], you have agreed to pay Allure Esthetic \$250,000 or  
 28     \$10,000 per day that you remain in breach . . . Again, we demand that you  
 29     immediately remove your Google.com review. If you choose not to comply . . . this  
 30     letter serves as notice to you that Allure Esthetic fully intends to pursue a claim for  
 31     damages . . .<sup>10</sup>

32     All of these consumers have firsthand knowledge and experience with Allure’s enforcement of  
 33     NDAs and can testify about how Allure used the NDAs to intimidate them and try to coerce  
 34     them into removing negative reviews.

35     Finally, to the extent that Allure and its staff made threats, or implied threats, to enforce  
 36     its NDAs through telephone calls to consumers after they posted negative reviews (and not just

25     <sup>9</sup> *Id.*, Ex. M (ASC000004).

26     <sup>10</sup> *Id.*, Ex. N (ASC000014).

1 in threat letters such as the ones above), the names and email addresses of the consumers  
 2 identified in the post-service NDAs and Allure's other NDA-related communications are an  
 3 invaluable source for the State to seek additional consumer testimony regarding the nature of  
 4 those telephone calls. As one of Allure's former employees explained in a declaration:

5 I worked for Allure from December 2019 to February 2021 as a Patient Care  
 6 Coordinator . . . [¶] My job responsibilities included checking patients in and out,  
 7 scheduling, and many other patient-related tasks. [¶] As part of the check-in process  
 8 every patients was given a stack of intake forms, including a form that talked about  
 9 not posting negative reviews. Allure required every patient to sign all the forms in the  
 10 stack, including the form about not posting negative reviews. We were instructed to  
 11 tell them if they didn't complete and sign all the forms they were not allowed to see  
 12 the doctor . . . [¶] There were times when a patient disregarded the form and posted a  
 13 negative review anyway. . . I would hear Sabrina [Defendants' CEO] or Gricelda  
[Defendants' Chief Operating Officer] placing calls to those patients and asking them  
to take the review down. If that wasn't effective, Sabrina or Gricelda would offer the  
patient money to take down the review. It that wouldn't work they would remind the  
patient that the form they signed was legally binding. They would say things like "our  
legal staff has reviewed the document" or "we will be forced to take legal action."<sup>11</sup>

14 Similarly, a consumer who posted negative reviews on Google and Yelp described the  
 15 phone call she then received from Allure's officer manager, in which Allure tried to use the pre-  
 16 service NDA to force her to take down the negative reviews, and threatened legal consequences  
 17 if she did not do so:

18 On February 22, 2021, I posted [one star] reviews on Google and Yelp describing my  
 19 experience with Allure Esthetic and Dr. Sajan. . . [¶] Within hours of posting the  
reviews I received a call from Allure Esthetic's office manager asking me to take them  
down. When I told them I would not, she indicated there would be legal consequences  
if I refused since I had signed a non-disclosure agreement.<sup>12</sup>

21 Again, without the names and email addresses of the consumers identified in the post-service NDAs  
 22 and these other NDA-related communications, the State cannot obtain testimony and other evidence  
 23

25 <sup>11</sup> *Id.*, Ex. O (Declaration of Shailyn Berry (June 12, 2023), ¶¶ 2, 5 & 8 (emphasis added)).

26 <sup>12</sup> *Id.*, Ex. D (Declaration of Victoria Hester (Jan. 26, 2022), ¶¶ 11-12 (emphasis added)).

1 from these affected consumers about the contents of these telephone calls in which Allure tried to  
 2 use the NDAs to remove or suppress negative reviews.

3 **C. Allure Has Effectively Stalled the State's Discovery Efforts for Months**

4 The State requested the documents now at issue in April 2023 in its Requests for  
 5 Production Nos. 1, 2 and 10, and Interrogatory No. 11, to which Allure responded in pertinent  
 6 part as follows:

7 **INTERROGATORY NO. 11:** Identify all persons who signed the Post-Service  
 8 NDA containing the provision entitled “Non-Disclosure Agreement” that appears  
 9 on page 2 (attached as Exhibit D to the Complaint, ASC003304), and for each of  
 those persons, when they signed the Post-Service NDA.

10 **ANSWER:** Objection. This Interrogatory is overly broad, unduly burdensome, and  
 11 not reasonably calculated to lead to the discovery of admissible evidence. Further,  
 it seeks Protected Health Information (“PHI”) for patients of the Defendants.  
 Accordingly, no PHI will be disclosed absent the entry of a protective order by the  
Court and a showing of good cause . . .

13 \*\*\*

14 **REQUEST FOR PRODUCTION NO. 1:** Produce all Documents,  
 15 Communications, and ESI relating to Your NDAs and any other steps You took in  
 advance to try to prevent, discourage, or restrict patients or consumers from posting  
 negative Consumer Reviews about You, including all Documents, Communications,  
 16 and ESI sent to or received from Your patients, consumers, employees, attorneys,  
 17 RealDrSeattle, or any other person or entity relating to those efforts.

18 **RESPONSE:** Objection. . . This Request is overly broad, unduly burdensome, and  
 19 seeks information protected by the attorney-client privilege and work product.  
 Further, it seeks Protected Health Information (“PHI”) for patients of the  
 20 Defendants. Accordingly, no PHI will be disclosed absent the entry of a protective  
order by the Court and a showing of good cause . . .

22 \*\*\*

23 **REQUEST FOR PRODUCTION NO. 2:** Produce all Documents,  
 24 Communications, and ESI relating to any steps You took to remove negative  
 Consumer Reviews that particular consumers or patients had posted relating to  
 You, including all Documents, Communications, and ESI sent to or received from  
 25 Your patients, consumers, employees, attorneys, Yelp, Google, Healthgrades,  
 RateMDs, RealSelf, Vitals, any other review site, RealDrSeattle, or any other  
 26 person or entity relating to those efforts.

**RESPONSE:** Objection. . . This Request is overly broad, unduly burdensome, and seeks information protected by the attorney-client privilege and work product. Further, it seeks Protected Health Information (“PHI”) for patients of the Defendants. Accordingly, no PHI will be disclosed absent the entry of a protective order by the Court and a showing of good cause . . .

\* \* \*

**REQUEST FOR PRODUCTION NO. 10:** Produce all Post-Service NDAs signed by Your patients and any other consumers of Your services or goods at any time, along with all Documents, Communications, and ESI You sent to or received from those patients or consumers about the Post-Service NDAs before or after they signed them.

**RESPONSE:** Objection. . . This Request is overly broad and unduly burdensome. Furthermore, it is vague and ambiguous to the extent a meaningful distinction between “patients” or “consumers” is intended. This Request also seeks Protected Health Information (“PHI”) for patients of the Defendants. Accordingly, no PHI will be disclosed absent the entry of a protective order by the Court and a showing of good cause . . .

Geyman Decl., Ex. P (State's First Interrogatories and Requests for Production to Defendants, with Answers and Responses Thereto, dated May 8, 2023) (emphasis added).

**D. The Court Entered a HIPAA-Compliant Protective Order that Resolves Defendants' Prior Objections Regarding the Need for a Protective Order**

On May 11, 2023, after Allure provided the State with its discovery responses and objections above, the Court entered a HIPAA-compliant protective order which expressly protects all “Confidential” material produced in discovery, including—at Allure’s specific request—all “Health Care Information and Protected Health Information and any other information that is protected by RCW 70.02 et seq. and/or HIPAA.” *See* Dkt. #21 at pp. 2 & 4, ¶¶ 2, 3, 4, 7.3 & 7.4.

**E. Despite the State's Good Faith Efforts, It Was Unable to Resolve this Discovery Dispute, Thus Requiring this Motion**

The parties made good faith efforts to resolve this discovery dispute and met and conferred to try to resolve it, but they were unsuccessful. See Geyman Decl., ¶¶ 18-22 & Ex. Q-S.

1 Accordingly, pursuant to Fed. R. Civ. P. 37(a), the State brings this Motion.

### 2                   III. ARGUMENT

3                   Federal Rule of Civil Procedure 26(b)(1) provides that a party “may obtain discovery  
 4 regarding any nonprivileged matter that is relevant to any party’s claim or defense and  
 5 proportional to the needs of the case, considering the importance of the issues at stake in the  
 6 action, the amount in controversy, the parties’ relative access to relevant information, the parties’  
 7 resources, the importance of the discovery in resolving the issues, and whether the burden or  
 8 expense of the proposed discovery outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(1). Under  
 9 this standard, “the scope of discovery is broad.” *Wagafe v. Trump*, 334 F.R.D. 619, 622  
 10 (W.D. Wash. 2020). Here, the Court should require Allure to produce these responsive  
 11 documents without redacting consumer names and emails because the State has a compelling  
 12 need for this highly relevant consumer testimony and evidence that it cannot obtain from other  
 13 sources, the information is not privileged, and it will be fully covered and protected by the  
 14 HIPAA-compliant protective order in this case.

15                   Federal courts have consistently held that patient names and email addresses are  
 16 discoverable and should be produced where, as here, the requesting party shows a compelling  
 17 need for the information and the information will be protected by an adequate protective order.  
 18 *See, e.g., Artis v. Deere & Co.*, 276 F.R.D. 348, 353 (N.D. Cal. 2011) (distinguishing patient  
 19 “names, addresses, and phone numbers” from “those more intimate privacy interests such as  
 20 compelled disclosure of medical records and personal histories,” and ordering production of  
 21 patient names and contact information subject to a protective order); *Kelley v. Colonial Penn  
 22 Life Ins. Co.*, No. CV 20-3348, 2022 WL 19403870, \*2 (C.D. Cal. May 19, 2022) (same, citing  
 23 *Artis*); *M.J. v. District of Columbia*, No. 18-cv-01901, 2020 WL 13668559, \*6-8  
 24 (D.D.C. July 1, 2020) (same, citing *Artis* and other cases). Here, likewise, the Court should  
 25 require Allure to remove the redactions and produce these consumer names and email addresses  
 26 subject to the protective order in this case.

1 Allure has argued that these consumer names and email addresses should be separately  
 2 protected under Washington's state PHI statute, RCW 70.02. State PHI laws, however, cannot  
 3 be used to impose more stringent discovery requirements in a federal court action, such as this  
 4 one, that is based on federal question jurisdiction and seeks to enforce federal law. *See Nw.*  
 5 *Mem'l Hosp. v. Ashcroft*, 362 F.3d 923, 925 (7th Cir. 2004) ("The enforcement of federal law  
 6 might be hamstrung if state-law privileges more stringent than any federal privilege regarding  
 7 medical records were applicable to all federal cases"); *Williams v. City of Philadelphia*,  
 8 No. 08-1979, 2104 WL 5393988, \*5-6 (E.D. Penn. Oct. 22, 2014) (noting that "a majority of  
 9 courts have concluded that HIPAA does not incorporate state statutes with stricter confidentiality  
 10 provisions for the purpose of litigation in federal court when jurisdiction is based on a federal  
 11 question," citing *Nw. Mem'l Hosp.* and other cases, ordering production of patient names subject  
 12 to "an appropriate protective order"). *See also* 75 *Federal Register* 40868, at 40874-75,  
 13 2010 WL 2753611 (July 14, 2010) (final HIPAA rules, stating "we take this opportunity to make  
 14 clear that neither the HIPAA statute nor its implementing regulations give effect to State  
 15 physician-patient privilege laws or provisions of State law relating to the privacy of individually  
 16 identifiable health information for use in Federal court proceedings"). Thus, Allure's reliance on  
 17 the State PHI statute is unavailing.

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1                                  **IV. CONCLUSION**

2                                  For the foregoing reasons, the State respectfully requests that Allure be ordered (1) to  
3 produce the consumer names and email addresses in the post-service NDAs, internal emails, and  
4 emails and other correspondence with consumers relating to specific negative reviews and/or  
5 relating to pre-service and/or post-service NDAs in response to the State's RFPs Nos. 1, 2 and  
6 10, and (2) to identify by name and email address all consumers who signed its post-service  
7 NDAs, in response to the State's Interrogatory No. 11. The State requests its fees for this motion.

8                                  DATED this 7th day of September, 2023.

9                                  ROBERT W. FERGUSON  
10                                 Attorney General

11                                 */s Matthew Geyman*  
12                                 MATTHEW GEYMAN, WSBA #17544  
13                                 CAMILLE M. MCDORMAN, WSBA #53036  
14                                 ZORBA LESLIE, WSBA #58523  
15                                 Assistant Attorneys General  
16                                 Attorneys for Plaintiff State of Washington  
17                                 800 Fifth Avenue, Suite 2000  
18                                 Seattle, WA 98104

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26                                 *I certify that this memorandum contains 4,020 words, in compliance with the Local Civil Rules.*

1                   **CERTIFICATE OF SERVICE**

2                   I certify under penalty of perjury under the laws of the State of Washington that I caused  
3 a copy of the foregoing to be served on all counsel of record via the ECF system.

4                   DATED this 7th day of September, 2023, at Seattle, Washington.

5                   \_\_\_\_\_  
6                   */s Matthew Geyman* \_\_\_\_\_  
7                   MATTHEW GEYMAN  
Assistant Attorney General

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